



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,805	11/28/2001	Anthony V. Pugliese III	954.39363X00	8808

7590 01/17/2006

John J. Tmar
Womble Carlyle Sandridge & Rice, PLLC
P.O.Box 70357-0037
Atlanta,, GA 30357-0037

EXAMINER

JANVIER, JEAN D

ART UNIT	PAPER NUMBER
----------	--------------

3622

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,805

Applicant(s)

PUGLIESE ET AL.

Examiner

Jean Janvier

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Response to Applicant's Amendments

Amended claim 1 (1-5) is directed to an invention that is independent or distinct from the invention originally claimed. Indeed, amended claim 1 recites the new step of **“disposing at least one video camera in a display area of the retail environment to scan the items of merchandise”**.

Since Applicant has received an action on the merits for the originally presented invention, this invention, disclosed in claims 13-20, has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-5 are being withdrawn from further consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

DETAILED ACTION

Specification

Status of the claims

Claims 1-5 and 13-20 are currently pending in the Instant Application. Claims 1-5 are being withdrawn from further consideration as described above. Thus, claims 13-20 are herein being examined on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13-20 are rejected under 35 USC 102(e) as being anticipated by Tavor, US Patent 6, 070, 149A.

As per claims 13-20, Tavor discloses a method of and a system for enabling users over a network or over the WWW to interact with an interactive sales representative system for providing sales guidance. The system offers the user products, services, or ideas (the "products"), via a medium or portal, according to parameters (profile data) collected from the user. The system guides the customer to retrieve or select the desired products. If the system does not have a product matching the customer's requirements, then preferably it will operate a mechanism for suggesting alternate products, which are the closest to the customer's requirements. The system will execute various sales tools and techniques to help and assist the customer and to convince

Art Unit: 3622

the customer to purchase a product. By guiding the customer to the target product, the system will shorten the search cycle for the customer as well as find better matched products.

The system will provide market advisory, suggest, recommend, discuss (in written form and optionally voice form using an audio component coupled to the portal or medium or platform used to disseminate or provide the product or service information during the sale presentation or session), comment, advise the customer regarding the products. The system might advise the customer in any other aspects as well (such as providing personal feedback).

The system is also configured to add graphics (video), animation, 3D, movie clips, voice and other effects to make the session enjoyable and more real for the customer during the sale presentation (dynamically displaying images of items in response to the customer's selection). The system is also capable of executing various tools and techniques to improve its sales capabilities and bring better sales results (See abstract).

In general, the present system relates to virtual sales personnel, and more particularly to software, which is capable of assisting a computer user to complete an on-line sales transaction in a substantially similar manner as a human sales representative (the customer orders one or more products online or the Internet using the aid of the virtual sales personnel via a portal or medium and using a local web browser- col. 1: 5-9).

See Col. 1: 65 to col. 3: 2.

The system accompanies the customer from the initial stage of requesting an Internet sales representative via the portal or medium, during a session or interaction, through the stage of determining the needs of the customer (the customer's interest, guiding the customer to the

Art Unit: 3622

desired products while maintaining a product and market advisory, and generally suggesting or recommending, and discussing or commenting with regard to the product through the purchasing process. The system follows a line of reasoning in order to sell to the end user. The system optionally continues through the credit card charge process with a secure mechanism for charging the card (the customer's credit card or token is used in multiple transactions-Col. 3: 31-42).

The system also features a "Detection engine" mechanism to recognize characteristics of the user and to modify the session from user to another user according to the individual (according to the user's profile stored in the system database). The "Detection engine" or "detection mechanism" is adapted to sense **certain behavior patterns** by the user, such as: curious about more information, serious customer, not a serious customer, and the like (determining shopping criteria, creating a shopper's profile and selecting items for display based on the shopper's profile or updating an identified user's profile with transaction or interaction data, wherein the user is being identified via an account number, code or via the use of a credit card or simply via a token-Col. 3: 43-49).

The system, following a signal from the "Detection engine" optionally and preferably writes **or records** to a dedicated log file **the email addresses of all the users (customers' tokens)**, who the "Detection engine" found to be interesting or important (col. 3: 59-62).

Col. 3: 6 to col. 4: 9.

When a product is recommended to the customer subsequent to a sales presentation, then the purchase is made by the user or customer by clicking the "purchase" button of GUI (block 22, see FIG. 1), thereby launching the "Purchase Mechanism" module (Block 50-Col. 6: 10-16).

A typical interaction or session between a user and a sales representative via a chat room (portal) is also disclosed by Tavor. Here, both the user and the sales rep. are identified by their respective names and IP addresses printed in the chat interface or page. Hidden messages are being displayed within the chat room to the user. It should further be understood that the image of a car shown in a chat room or chat page during a sales presentation is equivalent to displaying the car in an electronic or virtual showroom or showcase (col. 37: 18-67; col. 38: 1 to col. 39: 42).

In another embodiment, related HTML pages include a Header Page with the sales rep.'s name, a Chat History page (reflecting the interaction between the sales rep. and the user since the page was initiated), a Message page (the active text area for writing text information therein and a Purchase History page. The Purchase History page, for instance, contains the list of options and products chosen by the user in a current session, before the chatter was entered (chat support software). This list aids the sales representative to move or gear the chat in the right direction. The page is built from the data of a file that was previously prepared by the Detection Engine (FIG. 20, Block 230). The name of the file is obtained by the chatter from the initial form (the form which launches the chatter- col. 40: 41 to col. 41: 4).

During an interaction, a user may be given the choice of pressing a "purchase" button and a "Sounds interesting" button. If the former action or the "purchase" button is activated by the

Art Unit: 3622

user, then the information about purchasing is written to the virtual memory (storing the identified user's transaction data in a virtual memory or database-Col. 49: 6-10).

In a further embodiment, Built in arithmetic functions, allows the user to: sum up all of the purchased products in the session ("SumUpAll" (FIG. 7, Block 98); sum up the purchased products in a current department ("SumUpDepartment" (FIG. 7, Block 98)); sum up all of the products of a given type ("SumUpProduct" (FIG. 7, Block 98)); give a percentage discount ("Sys.sub. -- PercentsDiscount" (FIG. 7, Block 98)); and give a coupon discount ("Sys.sub. -- Coupon Discount" (FIG. 7, Block 98, fig. 14; col. 14: 1-9). In other words, a purchase module computes or sum up a discount amount (purchase award) based on the total transaction amount. A sales promotion or a purchase award is conveyed to the user during a sales presentation or negotiation between the sales rep. and the user where, for example, the sales trying to convince the user to buy a particular product, such as a different car, offers or guarantees a 78% discount to the user if he purchases the car before April 6, 1998 (col. 8: 54-65).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Girouard, US Patent 4, 982, 346.

As per claims 13-20, Girouard discloses a computer system for providing an advertising and promotional campaigns. The computer system includes a magnetic stripe card reader, bar code reader, monitor, printer, keyboard, and touch-screen input device. Software executing on the computer manages the operations of these devices. The system displays advertisements and product or store locator maps, dispenses coupons, accepts product orders, and manages customer surveys (providing a portal to a user to access the computer over a network or mall network). Customers are attracted to the system by promotional sweepstakes, thereby enhancing the effectiveness of the advertising and surveys. A frequent shopper campaign also attracts customers to the system (see abstract).

In general, Girouard discloses an automating advertising and promotional campaigns. The computer system includes a magnetic stripe card reader, bar code reader, monitor, printer, keyboard, and touch-screen input device. Software executing on the computer manages the operations of these devices. The present system provides means for displaying advertisements on the monitor. The software also comprises means for attracting customers to the computer system, thus enhancing the effectiveness of the advertisements. The means for attracting customers is comprised of means for managing promotional sweepstakes, displaying product or store locator maps, dispensing coupons, accepting product orders, and managing customer surveys. The computer system (portal or kiosk) can communicate with a centralized site, thereby providing

Art Unit: 3622

centralized control of remote installations. Files, programs, and other data may be electronically transmitted from the central site to the computer system. In addition, player logs, consumer surveys, enrollment files, product ordering files, in error logs, and other data may be electronically transmitted from the computer system to the central site (col. 1: 20-44).

Additionally, Girouard discloses an automated advertising and promotion system, comprising input means for accepting commands and data, including customer identifications (tokens), from customers via kiosks or portals, display means for selectively presenting data to the customers, control program means, executed by a computer (kiosk) operatively connected to the input means and display means for managing the input means and display means, the control program means having advertising means for presenting a plurality of independent advertisements on the display means and sweepstakes means, integrated with the advertising means, for managing a promotional sweepstakes, wherein the customer identifications accepted by the input means are used to identify sweepstakes participants, and wherein indications are presented on the display means when the sweepstakes participants win prizes, the promotional sweepstakes thereby enhancing the effectiveness of the advertisements presented on the display means by attracting customers into using the system. The system also incorporates a frequent shopper means for encouraging the customers or participants to use the system, which further comprises acceptance means for accepting a frequent shopper identification via the input means (accepting a frequent shopper card or token via a card input reader), retrieval means for retrieving a customer record from a database, the customer record corresponding to the customer identification accepted by the input means, the customer record including the customer identification, a frequent shopper field and demographic data, update means for updating the

Art Unit: 3622

frequent shopper field in the customer record in response to accepting the frequent shopper identification and award means for awarding prizes to the sweepstakes participant based on a comparison by the control program means of the updates of the frequent shopper field and a schedule stored in the computer means. Finally, the system further comprises demographic means, integrated with the sweepstakes means, for gathering demographic data from the sweepstakes participant via the portal or kiosk (mall terminal)

See claims 1-3 and 7 of the current reference.

Response To Applicant's Arguments

Applicant's are based on the amended claims and are fully addressed in the above Office Action. Furthermore, and for argument sake, both Tavor and Girouard disclose the use of a "video module" or monitor or computer screen used to display graphical images, product information, product images to a customer during a real-time interaction with a system (sales assistant).

Therefore, the Applicant's request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant's arguments as herein presented are not plausible and thus, the current **Office Action has been made Final.**

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean D Janvier whose telephone number is 571-272-6719. The examiner can normally be reached on Monday-Thur 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. P Stamber can be reached on 571-272-6724.

Jean D Janvier
Examiner
Art Unit 3622

01/07/05

JDJ

JEAN D. JANVIER
PRIMARY EXAMINER

